

Article 2: Public Rights-of-Way and Land Development**Division 10: Newsracks on Public Rights of Way — Locations***(“Newsracks on Public Rights of Way — Locations”**added 12-6-1974 by O-11457 N.S.)***§62.1001 Purpose and Intent**

The Council of The City of San Diego finds and declares that:

- (a) The uncontrolled placement of newsracks in public rights of way presents an inconvenience and danger to the safety and welfare of persons using such rights of way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.
- (b) Newsracks so located as to cause an inconvenience or danger to persons using public rights of way, and unsightly newsracks located therein, constitute public nuisances.
- (c) The general welfare requires that the aesthetic appearance of public rights of way in the City of San Diego, including the appearance of newsracks, be improved.
- (d) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public safety and general welfare of persons in the City of San Diego in their use of public rights of way.
- (e) The "Centre City" area is a unique area of the City accommodating vast numbers of working citizens and visitors to San Diego on a daily basis. Because of the numerous intersections and painted curbs, as well as other attributes which would otherwise prohibit the placement of newsracks consistent with this division, it is intended that these provisions provide relief in Centre City to help ensure that dissemination of information is not unreasonably restricted.

(Amended 9-30-1996 by O-18345 N.S.)

§62.1002 Definitions

The following definitions apply in this division:

- (a) "Centre City" means that portion of the downtown area of San Diego shown in Figure 1 of Chapter 6, Article 2, Division 10, except for lands within the jurisdiction of the San Diego Unified Port District which are subject to the provisions of the San Diego Port District Act of 1976 and the Navy Broadway Complex.
- (b) "Distributor" means the person responsible for placing and maintaining a newsrack in a public right of way.
- (c) "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display, sale or distribution of publications.
- (d) "Parkway" means the area between the sidewalk and the curb of a roadway, and where there is no sidewalk, that area between the edge of the traveled roadway and the edge of a public right of way. "Parkway" also includes any area within a roadway that is not open to vehicular travel.
- (e) "Public Right of Way" means any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, parkway, highway, alley, lane, mall, court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, park, square, and any other similar public way.
- (f) "Roadway" means that part of a public right of way that is designated and used primarily for vehicular travel.
- (g) "Sidewalk" means that part of a public right of way that is designated and ordinarily used for pedestrian travel.

(Amended 9-30-1996 by O-18345 N.S.)

§62.1003 Prohibition

No person shall knowingly place, install, use or maintain any newsrack which rests in whole or in part upon, in, or on any portion of a public right of way or which projects

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onto, into, or over any part of a public right of way except in compliance with the provisions of this division.

("Prohibition" added 12-6-1974 by O-11457 N.S.)

§62.1004 Standards for Newsracks

Any newsrack which rests in whole or in part upon, in, or on any portion of a public right of way or which projects onto, into, or over any part of a public right of way shall comply with the standards set forth in this section:

- (a) No newsrack shall exceed sixty (60) inches in height, thirty (30) inches in width, or twenty-four (24) inches in thickness.
- (b) No advertising signs or material, other than those dealing with the name of the publication contained within the newsrack, shall be displayed on the outside of any newsrack.
- (c) Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he is unable to receive the publication paid for. The coin-return mechanisms shall be maintained in good working order.
- (d) Each newsrack shall have stenciled or otherwise permanently affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notice provided for in this division.
- (e) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that: (1) it is reasonably free of dirt and grease; (2) it is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof; (3) it is reasonably free of rust and corrosion in the visible unpainted metal areas thereof; (4) the clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration; (5) the paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and (6) the structural parts thereof are not broken or unduly misshapen.

(Amended 9-30-1996 by O-18345 N.S.)

§62.1005 Location of Newsracks

Any newsrack which rests in whole or in part upon, in, or on any portion of a public right of way or which projects onto, into, or over any part of a public right of way shall be located in accordance with the provisions of this section:

- (a) No newsrack shall be located in whole or in part in any roadway.
- (b) Newsracks shall be located only near the curb (or, if there be no curb, the edge of the roadway) or the wall of a building. Newsracks located near the curb shall be located no less than eighteen (18) inches nor more than twenty-four (24) inches from the roadway edge of the curb and shall not open toward the roadway. Newsracks located adjacent to a building shall be located parallel to and not more than six (6) inches from the wall thereof. No newsrack shall be located directly in front of any display window of any building abutting a sidewalk or parkway except near the curb. No newsrack shall be located on the sidewalk or parkway directly opposite a newsstand or another newsrack.
- (c) No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right of way, except to other newsracks.
- (d) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than ten (10) feet along a curb, and a clear paved space of not less than six (6) feet shall separate each group of newsracks.
- (e) No newsrack shall be placed, installed, used or maintained:
 - (1) Within three (3) feet of any marked crosswalk.
 - (2) Within twelve (12) feet of the curb return of any unmarked crosswalk.
 - (3) Within three (3) feet of any fire hydrant, fire call box, police call box or other emergency facility.
 - (4) Within three (3) feet of any driveway.
 - (5) Within three (3) feet ahead or fifteen (15) feet to the rear of any sign marking a designated bus stop.

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- (6) Within three (3) feet of the outer end of any bus bench.
- (7) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.
- (8) Within three (3) feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.
- (9) Within one hundred (100) feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.
- (10) Within five (5) feet of a curb painted blue, or within three (3) feet of a curb painted red, yellow or white pursuant to the provisions of California Vehicle Code section 21458.

The provisions contained in subsection (e) of this section shall not apply in Centre City if compliance with the provisions would prohibit the placement of newsracks for a distance of one hundred fifty (150) feet on the same side of the street in the same block.

- (f) Upon removal of any newsrack, the distributor shall promptly eliminate any potential hazards to the public, such as bolts, brackets or holes.

(Amended 9-30-1996 by O-18345 N.S.)

§62.1007 Enforcement

Upon a determination by the City Manager that a newsrack has been installed, used, maintained or removed in violation of any of the provisions of this division, he shall cause an order to be issued to the distributor to correct the offending condition. The order shall be mailed to the distributor by certified mail, return receipt requested, at the address shown on the notice required by Section 62.1004(d). The order shall specifically describe the offending condition and suggest actions necessary to correct it. If the distributor fails to correct properly the offending condition within ten (10) days after receipt of the order, the City Manager shall cause the offending newsrack to be summarily removed and processed as unclaimed property under applicable provisions of law. If the distributor of the offending newsrack cannot be identified, or the certified letter cannot be delivered, the newsrack shall be removed immediately and processed as unclaimed property under applicable provisions of law. The foregoing provisions are not exclusive, and are in addition to any other penalty or remedy provided by law.

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*(Amended 9-30-1996 by O-18345 N.S.)***§62.1009 Other Violations**

In the case of minor violations of this division that can be corrected on the spot, any City employee, as an alternative to removal of the newsrack, is authorized to correct the violation summarily.

*(“Other Violations” added 12-6-1974 by O-11457 N.S.)***§62.1010 Public Nuisance**

Any newsrack, or any publication offered for sale or distribution, in violation of this division shall constitute a public nuisance, and may be abated in accordance with applicable provisions of law.

*(“Public Nuisance” added 12-6-1974 by O-11457 N.S.)***§62.1011 Abandonment**

In the event a newsrack remains empty for a period of thirty (30) continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided in Section 62.1007 for newsracks in violation of the provisions of this division.

*(“Abandonment” added 12-6-1974 by O-11457 N.S.)***§62.1012 City Manager’s Designated Representative**

"City Manager" as used in this division shall include his designated representative.

*(“City Manager’s Designated Representative” added 12-6-1974 by O-11457 N.S.)***§62.1013 Constitutionality**

If any section, subsection, sentence, clause, phrase or part of this division is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this division. The Council hereby declares that it would have adopted this division and each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or parts be declared invalid or unconstitutional.

(“Constitutionality” added 12-6-1974 by O-11457 N.S.)